



UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

**In the Matter of
Truth-in-Billing and Billing Format**

CC Docket No. 98-170

**Comment of the
FEDERAL TRADE COMMISSION**

November 13, 1998

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I. Introduction and Summary

The Federal Trade Commission (FTC or Commission) welcomes this opportunity 4Tp5a Td055ppo5isp0 Td [(A)4(1 scn 703-(t)2(y.1

consumers may find it increasingly convenient to be billed on their telephone bills for services other than telephone carriage -- voicemail, caller-ID, Internet, cable, and other as-yet-unknown services.

Yet, the telephone billing system lacks many of the fraud prevention and risk assessment features that characterize the more established billing and collection systems.⁽⁵⁾ Recent experience demonstrates that the telephone billing system is open to abuse by unscrupulous vendors who "cram" unauthorized charges on consumers' telephone bills, and these abuses are causing consumer harm.

The FTC notes that the Truth in Lending Act (TILA) was one of several sources to which the FCC looked in initiating this rulemaking. We agree with the FCC that the TILA is a useful starting point in addressing telephone truth-in-billing issues. Congress enacted TILA to ensure that consumers are given meaningful information about credit transactions and to create important protections for consumers using the then-novel credit card billing and collection system.⁽⁶⁾ TILA codified in the bankcard arena many of the protections that the telephone billing and collection system currently lacks.

In its NPRM, the FCC describes the proliferation of cramming. The FTC's experience with respect to cramming is similar to that of the FCC. The FTC's Consumer Response Center has received nearly 9000 complaints concerning cramming in the past twelve months. One reason the telephone billing system has been susceptible to cramming is the current state of telephone bills, which have confusing presentation of often ill-explained charges. It is a fairly easy matter for unscrupulous companies to hide the relatively small unauthorized charges characteristic of cramming on a lengthy bill containing cryptic descriptions of charges, such as "miscellaneous fees." At present, many telephone bills are not clear, accurate, and complete enough to enable consumers to recognize when they have been crammed, nor

1992 (TDDRA), which required both agencies to adopt rules to promote legitimate pay-per-call services and shield telephone subscribers from fraudulent and abusive practices.⁽¹⁰⁾ The FTC recently published a Federal Register notice seeking comment on proposed revisions to the 900-Number Rule it adopted in 1992 pursuant to TDDRA.⁽¹¹⁾ The proposal would expand consumer protections against cramming, in part by requiring express authorization by the line subscriber for any non-toll charges that cannot be blocked through 900-number blocking.⁽¹²⁾ Another proposed revision would expand billing disclosure requirements to embrace all "telephone-billed purchases," a term that includes most purchases charged to a customer's telephone bill other than local or long distance service.⁽¹³⁾ The proposed Rule would require that billing statements display charges for telephone-

C. "Status Changes" Can Be Signified With Alternative Fonts or Colors.

The NPRM proposes the inclusion of a "status changes" page, which could include changes in presubscribed carriers, new service providers, and changes in blocking services.

Again, we are concerned about adding to the bulk of an already hefty phone bill. There are probably less burdensome methods for achieving the goals of this proposal than requiring bills to contain a "status changes" page. Most of the information to be contained in a "status changes" page would already be reflected in the "current status" information. Repeating the information in summary fashion may likely be as confusing as it is helpful.(20)

An alternative, more flexible way to alert consumers about status changes (e.g. charges assessed by a company with whom the consumers have not previously dealt) would be to do so within the body of the bill through the use of a different font (e.g. italics) or colored type to highlight these charges. New changes printed in bold or a contrasting color, for example, would be at least as likely to be noticed by consumers as would an additional summary page but would avoid additional paper. Additionally, printing new changes in a larger, more prominent typeface might have the advantage of disclosing more effectively "status changes" to elderly subscribers with failing eyesight and others with impaired vision. A similar approach could be used within the proposed "current status" information to highlight changes there. For example, where the preferred long distance carrier has changed, consumers examining their current services page would not only note the new carrier's name, but would be alerted by the different font or color that a switch in providers had occurred.

The NPRM proposes the incorporation of the concept of "clear and conspicuous" disclosure with respect to important information on consumers' telephone bills, including status changes and new charges. "Clear and conspicuous" disclosure is a fundamental concept developed under Section 5 of the FTC Act, which prohibits "unfair or deceptive practices." We strongly endorse incorporation of the con

amendments to the FTC's Rule would impose a parallel requirement for charges for pay-per-call services, requiring that billing statements include the actual telephone number dialed to access the service.⁽²⁵⁾ The FCC may want to consider extending this principle to require that any service accessed through the telephone and billed on the telephone bill include the number through which the service was accessed. Like the description of the service, the telephone number used to access the service is information that is key to a consumer's ability to identify services for which he or she is billed and to determine the basis for those service charges.

B. The Name of the Service Provider Should Be Clearly and Conspicuously Identified in Association with its Charges.

The absence of the name of the service provider that submits a charge makes it difficult for consumers to determine whether a charge is valid and to dispute effectively an invalid charge.⁽²⁶⁾ Complete information in this context means the name of the service provider purportedly providing the service and, where applicable, the name and telephone number of the billing aggregator or clearinghouse with legal authority to resolve a consumer complaint. Where vendors do business through aggregators, the name of the aggregator often appears on the bill without the name of the service provider. To assess the legitimacy of a charge, however, a consumer needs to be informed of the identity of the other party to the transaction -- the service provider. Inclusion of service provider information is an area for improving telephone bills, and is supported by the LEC Guidelines.⁽²⁷⁾

C. Telephone Bills Should Separate Those Charges For Which Non-Payment Does Not Result in Loss of Basic Telephone Service.

Differentiating between those charges that, if not paid, can result in loss of basic service and those which cannot, would aid consumers in understanding their legal rights in the deregulated telecommunications environment. Consumers should be notified when they need not fear that disputing a charge could result in the termination of local or long distance service. Part of the solution to cramming and slamming is increased consumer vigilance in policing phone bills and disputing wrongful charges. Making it clear to consumers that their service will not be terminated if they dispute certain charges may give consumers greater confidence when taking issue with unauthorized, "crammed," or other problem charges. This proposal also is supported by the LEC Guidelines.⁽²⁸⁾

Consumers may not always be aware that, with the expansion of the telephone billing system to cover a wider assortment of products and services, the traditional rules of subscriber liability may not apply. Crammers often have taken advantage of the common misperception that line subscribers are liable for all charges appearing on their phone bill, whether authorized or not.⁽²⁹⁾ A consumer is no more obligated to pay for an unauthorized purchase of voicemail, or any other enhanced service, than she would be obligated to pay for an unauthorized purchase of a sweater made using her telephone. In either case, the fact that the product or service happened to be ordered from the subscriber's phone does not itself obligate the subscriber for the charge nor would nonpayment cause the consumer's telephone service to be disconnected.⁽³⁰⁾

D. Descriptions

E. Advertised Prices Should Reflect Charges Billed.

Where long distance carriers advertise the costs for their services in terms of per-minute rates, the inclusion of charges in addition to those per-minute rates (i.e., access or universal service charges) may raise issues concerning the accuracy of the advertisement. Congress and the FCC have worked hard to open the long distance markets to give consumers a choice of carrier. To make informed choices, consumers need full and non-misleading information about a carrier's rates. Since the amounts charged consumers for recoupment of access or universal service costs vary from carrier to carrier, consumers need to know what those charges are in order to comparison shop. Thus, advertisements should disclose to consumers complete information regarding the costs of the service advertised, including amounts to be charged for access or universal service.⁽³²⁾ The amount a consumer is charged on the telephone bill should match the charges contained in the advertisement.

IV. Telephone Bills Should Contain Clear and Conspicuous Disclosure of Any

Servs., Inc., No. 98-3049 (C.D. Calif., filed Apr. 22, 1998); FTC v. International Telemedia Assocs., Inc., No. 1-98-CV-1935 (N.D. Ga., filed July 10, 1998).

31. The FCC did not impose any specific mechanism on carriers to recover these costs. It noted in the NPRM, however, that some carriers may have imposed charges on consumers that exceed actual incurred costs and misidentified such charges as required by the FCC.

32. This might be accomplished by carriers listing the universal service or access fees separately or by including them in the advertised price per minute.

33. 63 Fed. Reg. at 58,564 (1998).